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JUN 08 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth Lathrop, Stephen :
Penrice : DECISION REFUSING
Application No. 10/668,891 : STATUS UNDER § 1.47(a)
Filing Date: September 23, 2003 :
Attorney Docket No. 20339.14 :

This is in response to the "PETITION FOR FILING ON BEHALF OF A NON-SIGNING INVENTOR UNDER 37 CFR §1.47(a)," filed April 19, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 23, 2003, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on

December 16, 2003. This Notice set an extendable period for reply of two months. On April 19, 2004, applicants filed the instant petition, made timely by obtaining a two month extension of time and including a Certificate of Mailing dated April 14, 2004.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because it does not contain the residence and post office address of the non-signing inventor.

On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The change of correspondence address and power of attorney will be entered at such time as the person signing the instant petition files a grantable petition under 37 CFR 1.47(a).

Further correspondence with respect to this matter should be addressed as follows:


By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

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By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-0272.



Cliff Congo
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